

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

CIVIL ACTION NO. 1:12cv0014 (WOB-KLL)

ROBERT PEAVIE

PETITIONER

VS.

ORDER

WARDEN, CHILLICOTHE  
CORRECTIONAL INSTITUTION

RESPONDENT

This matter is before the Court on the Report and Recommendation of the United States Magistrate Judge (Doc. #8), and there being no objections filed thereto, and the Court being advised,

**IT IS ORDERED** that said Report and Recommendation be, and it hereby is, **adopted** as the findings of fact and conclusions of law of this Court; that respondent's motion to dismiss be, and it hereby is, **granted**; that petitioner's petition for writ of habeas corpus be, and it hereby is, **denied**; that **no** **Certificate of Appealability shall issue herein** with respect to the claims alleged in the petition, which this Court concludes are waived and thus procedurally barred from review because under the first prong of the applicable two-part standard enunciated in *Stack v. McDaniel*, 529 U.S. 473, 484-85 (2000), "jurists of reason" would not find it debatable whether this Court is correct

in its procedural ruling; that with respect to any application to proceed *in forma pauperis* on appeal, the Court certifies, pursuant to 28 U.S.C. Section 1915(a)(3), that an appeal of this matter would not be taken in "good faith," and any motion to appeal *in forma pauperis* will be denied. A separate Judgment shall enter concurrently herewith.

This 18th day of March, 2013.



**Signed By:**

**William O. Bertelsman** WOB

**United States District Judge**